

Approved \_\_\_\_\_

Date 2-28-91

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Carol H. Sader at \_\_\_\_\_  
Chairperson

1:30 a.m./p.m. on February 21, 1991 in room 423-S of the Capitol.

All members were present except:

Representative Hackler, Representative Scott, both excused.

Committee staff present:

Emalene Correll, Research  
Bill Wolff, Research  
Norman Furse, Revisor  
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Richard Gannon, Executive Director, Ks. Board of Healing Arts  
Larry Buening, General Counsel, Ks. Board Healing Arts  
Chip Wheelen, Ks. Medical Society

Written testimony from Dr. David A. Leitch, Garnett, Ks.

Written testimony from Dr. Gerald L. Mowry, Manhattan,

Ks.

Harold Riehm, Executive Director, Ks. Osteopathic Association,  
written testimony only.

Joe Furjanic, Executive Director/ Ks. Chiropractic Association

Chair called meeting to order by welcoming present. She invited Mr. Bob Williams, Executive Director of Ks. Pharmacist's Association to introduce members of Kansas Board of Pharmacists that were present.

Chair drew attention to agenda scheduled for this date.

**HEARINGS BEGAN ON HB 2127:**

Richard Gannon, Executive Director of Ks. Board of Healing Arts offered hand-out (Attachment No. 1). He stated the Board reviews more than 11,000 individuals it licenses, registers, or certifies when there is evidence shown indicating there is incompetence or violations of statutory provisions. At times persons practice the healing arts without any credentials whatsoever. The intent of HB 2127 is to strengthen the criminal penalties against the unlicensed and unqualified who practice medicine and surgery. He cited specifics in several cases, noting penalties that are very insignificant compared to the harm done and the crime committed. He noted language in HB 2127 that would increase penalty fees. He cited penalty fees for other license violations, i.e., real estate practice without a license; practice of veterinary medicine without a license; licensed nurse who administers anesthesia without authorization. All of these violations have stronger penalties and larger penalty fees than those imposed upon a person who practices medicine and surgery without a license. He noted proposed changes in the bill that would direct changes in fee penalties, and change the class of the crime. He urged support for changes proposed by the Board of Healing Arts. Mr. Gannon and Mr. Buening both answered questions.

Chip Wheelen, Kansas Medical Society offered hand-out (Attachment No. 2). He noted, for informational purposes, a Class B penalty is worse than a Class C penalty.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 1:30 a.m./p.m. on February 21, 1991.

Mr. Wheelen spoke in support of HB 2127 noting the existing penalty for the practice of healing arts without a license, even if such activity causes great harm or threatens a person's life, is a maximum penalty of only a \$200 fine. The Kansas Medical Society feels this is very inadequate. He explained the differences in penalties and rationale of the three levels of penalties recommended by the Board of Healing Arts. He cited a theoretical situation, i.e., if a practicing physician, with an inadvertent lapsed license, is faced with an emergency situation, why should he be penalized for giving aide to an accident victim? It would be unfortunate if he were to be penalized for giving what could be life-saving measures to this accident victim. For these reasons, proposed amendments were offered in his hand-out. He detailed amendments indicated on pages 2 and 3 of balloon offered on HB 2127.

Mr. Wheelen indicated, in the interest of time, the Kansas Medical Society had opted to include letters from two physicians as written testimony rather than bring the physicians away from their practice. These letters detail cases in which the practice of healing arts had been detrimental to the public. (This written testimony had been presented to a Senate Committee last year on an identical bill that did not pass out of Committee due to time constraints.)

Mr. Wheelen requested these letters be marked as attachments to minutes this date.

(Attachment No. 3) written testimony from David A. Leitch, M.D.  
(Attachment No. 4) written testimony from Gerald L. Mowry, M.D.

Mr. Wheelen answered numerous questions.

Mr. Harold Riehm, Executive Director of Ks. Osteopathic Association, was unable to attend in person, but asked that his printed testimony on HB 2127, (Attachment No. 5), be considered and recorded this date.

Joe Furjanic, Ks. Chiropractic Association, stated support for HB 2127. He noted they also support the amendments proposed by the Kansas Medical Society.

Chair at this point requested Mr. Furjanic to supply a written formal statement of his support. He agreed to do so.

HEARINGS CLOSED ON HB 2127.

Chair called for discussion on HB 2128, and a fiscal note from the Division of Budget. Chair requested staff to brief committee on fiscal note. Mr. Wolff detailed the fiscal note on HB 2128, indicating it creates no fiscal impact. (Attachment No. 6)

DISCUSSION BEGAN ON HB 2128.

Representative Neufeld moved to amend HB 2128 on page 1, line 24 after the word "training", to strike remaining language in line 24, all of line 25, and in line 26 up to and including ",." This will removed confusing language he said.

Representative Carmody seconded the motion and suggested another amendment offered in balloon form. (see Attachment No. 7.)

Discussion ensued, i.e., there are differences in language proposed by Representative Neufeld and Representative Carmody. At this point, Representative Carmody withdrew his second to Representative Neufeld's motion. There was no other second to Rep. Neufeld's motion.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 1:30 ~~a.m.~~/p.m. on February 21, 1991

At this point, Representative Carmody moved to adopt his amendment indicated in balloon (Attachment No. 7). Representative Carmody explained his proposed amendment. Representative Neufeld then seconded the motion to amend per balloon offered by Representative Carmody and to further amend in line 26 to strike "of regents" and insert "healing arts". Discussion continued.

At request of the Chair, staff offered their expertise in proposed language changes, i.e., in line 22 after the word "assistants" strike remaining language, strike all of line 23, 24, 25 and in line 26 strike all language up to the "comma".

After continued discussion and agreement with Representative Carmody and Representative Neufeld, vote was taken to include suggested amendments on HB 2128 as defined by staff. Motion carried.

On HB 2128 as a whole, Representative Samuelson moved to pass HB 2128 favorably out of committee as amended, seconded by Representative Neufeld. Motion carried.

Chair requested Representative Bishop to carry HB 2128 on the floor, and he agreed to do so.

Chair called for discussion on HB 2141 and called attention to fiscal note prepared by Budget Division on HB 2141. (Attachment No. 8).

Chair invited Mr. Wolff to review the fiscal note. He did so, noting inaccuracies, i.e., \$30,000 possible to recoup annually is not consistent with provisions in bill which would allow the Board discretion in recouping funds following court proceedings. It was the consensus of committee that this figure is incorrect.

Discussion began on HB 2141.

Representative Praeger offered an amendment to HB 2141 prepared by the Kansas Medical Society (Attachment No. 9). She detailed the balloon provided.

Representative Praeger moved to amend HB 2141 exactly as indicated in balloon provided in (Attachment No. 9), seconded by Representative Love. Discussion ensued. Vote taken. Motion carried.

Staff called attention to a technical matter regarding fees on line 25. Language changes were discussed at length regarding statute 65-2852.

Rep. Neufeld moved to amend HB 2141 on page 1, line 25 to delete "by rules and regs not to exceed \$1000", and to further amend by adding a new sub sec. 3, "for reinstatement of a license in a sum of not more than \$1000", then renumber subsequent sections.

Discussion ensued. Vote taken. Motion carried.  
ON HB 2141 as a whole.

Rep. Praeger moved to report HB 2141 favorably as amended, seconded by Rep. Wiard. Motion carried.

Rep. Praeger agreed to carry HB 2141 on the floor of the House.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S Statehouse, at 1:30 a.m./p.m. on February 21, 1991.

Chair called for discussion on HB 2033.

Chair called attention to fiscal note on HB 2033, and requested staff to review same. Mr. Wolff did so. Chair noted to members that HB 2033 was doubly referred and would be sent to the Tax Committee next. (Attachment No. 10).

DISCUSSION BEGAN ON HB 2033.

It was noted HB 2033 should have a negative fiscal impact on the state budget since it will enable persons to stay in their homes longer and not be a burden financially on the state.

Representative Cozine stated concerns with definition of "disabled person", and in order to have this definition clarified to determine who is eligible for assistance, offered a balloon amendment on HB 2033. (Attachment No. 11). Rep. Cozine detailed rationale for amendment.

Chair requested staff to explain K.S.A. 39-778, regarding prescreening for an individual being admitted to an adult care home.

Representative Cozine moved to adopt balloon amendment proposed in (Attachment No. 11) on HB 2033. Motion seconded by Rep. Lynch. Lengthy discussion continued. Vote taken. Motion failed.

At this point, Chairperson Sader suggested HB 2033 be discussed again next week. If anyone wishes to offer further amendments, please have them prepared by next week.

Note: (Attachment No. 12) is testimony in support of HB 2127 from Mr. Joe Furjanic, Ks. Chiropractic Association.

Meeting adjourned by Chairperson Sader.

Next meeting will be held Monday, February 25, 1991.

GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

Date February 21, 1991

Name	Organization	Address
Chip Wheelen	Ks Medical Society	Topeka
Bob Williams	Ks Pharm Assoc.	Topeka
Michael J. Hansen	Bd of Health	!!
Tom W. Kepka		Ellsworth, Ks.
KATH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
Tom Bruns	Kansas Pharmacists Assn	Kansas City, KS
Carol Morgan	Kansas Pharmacists Assn	Topeka, KS
Hugh Sweit	Kansas Pharmacists Assn	Wichita, KS
Sam Hudson	Pharmacist	Wichita, KS
Candace Davis	Rocking - Ks. Dept. on Aging	Topeka
John Metzger	Kansas Optometric Assoc.	Haworth, KS
JOE FURJANIC	KCA	TOPEKA
Darlene Stearns	Topeka's RCAR	Topeka

# State of Kansas

## Office of

RICHARD G. GANNON, EXECUTIVE DIRECTOR  
LAWRENCE T. BUENING, JR., GENERAL COUNSEL  
STEVE A. SCHWARM, LITIGATION COUNSEL  
MICHELLE M. TORRES, DISCIPLINARY COUNSEL  
SUSAN M. LAMBRECHT, LICENSING SUPERVISOR



## Kansas State Board of Healing Arts

235 S. TOPEKA BLVD.  
TOPEKA, KS 66603  
913-296-7413  
FAX: 913-296-0852

# Board of Healing Arts

## M E M O R A N D U M

To: House Committee on Public Health & Welfare  
From: Richard G. Gannon  
Re: Testimony on HB 2127  
Date: February 21, 1991

Madam Chairperson and members of the Committee, thank you for the opportunity to appear in support of House Bill 2127. The Board of Healing Arts strongly believes that this particular bill will help rectify a situation that presents grave concerns and danger to the citizens of the State of Kansas. This bill is similar to 1990 SB 753 which was passed by the Senate, but was referred to House Judiciary Committee and, due to the number of bills in that Committee, did not receive a hearing and died in Committee.

Under K.S.A. 65-2801, the Healing Arts Act was adopted by this Legislature in 1957 to ensure the public is properly protected against "unprofessional, improper, unauthorized and unqualified practice of the healing arts." Pursuant to K.S.A. 65-2812, the Kansas State Board of Healing Arts is vested with the responsibility of administering the Healing Arts Act.

*PNW  
2-21-91  
atten #1*

### MEMBERS OF BOARD

FRANKLIN G. BICHLMEIER, M.D. PRESIDENT  
OVERLAND PARK  
JOHN P. WHITE, D.O., VICE PRESIDENT  
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PAUL T. GREENE, JR. D.C., GREAT BEND  
HAROLD GULDNER, SYRACUSE  
MARK HATESOHL, D.C., MANHATTAN  
GLENN I. KERBS, DODGE CITY

CAMERON D. KNACKSTEDT, D.O., PHILLIPSBURG  
GRACIELA MARION, EUDORA  
JOHN PETERSEN, OVERLAND PARK  
JOSEPH PHILIPP, M.D., MANHATTAN  
IRWIN WAXMAN, D.P.M., DEARBORN VILLAGE  
KENNETH D. WEDEL, M.D., MINNEAPOLIS  
RON ZOELLER, D.C., TOPEKA

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I would respectfully submit that the Board is doing a most acceptable job of reviewing and disciplining those more than 11,000 individuals it licenses, registers or certifies when those individuals are shown to be incompetent or have violated other statutory provisions for which disciplinary action can be taken. However, from time to time in the course of our investigative activities, we encounter individuals practicing the healing arts without any credentials whatsoever.

The intent of this bill is to strengthen the criminal penalties of the unlicensed and unqualified practice by a variety of individuals including homeopaths, lay midwives, naturopaths who invade the practice of the healing arts as well as those individuals who are just plain quacks and charlatans. Please keep in mind that since these individuals are not licensed or registered by our office, they are not under our disciplinary jurisdiction. We employ as our standard operating protocol a complete investigation of this type of complaint by Board staff and upon conclusion, refer it to the appropriate county or district attorney. Some specific examples of cases investigated include: (a) a "doctor" from Mexico who convinced an individual with prostrate cancer to forego surgery since he could "cure" the cancer through the use of coffee enemas; (b) a homeopath who influenced

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individuals to utilize homeopathic preparations and either discontinue prescribed medications or forego seeking proper medical attention; (c) a midwife who delivered a child with no physician supervision and which resulted in the mother dying and leaving 11 motherless children.

However, the Board has found that these busy prosecuting attorneys receiving our complaint are not terribly enthusiastic in pursuing a case with a maximum penalty of not more than Two Hundred Dollars (\$200). At present, K.S.A. 65-2862 provides that any individual who violates any provision of the Healing Arts Act shall, upon conviction of the first offense, pay a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200). For a second violation of the Healing Arts Act, the fine is not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) for each separate offense. No provisions are made for any period of imprisonment or confinement in county jail.

Penalties for unlicensed activities in other professions and occupations have been reviewed by Board staff. I would like to mention just a few examples. In Kansas, if you conduct an auction without a license, under K.S.A. 58-1022, you are subject to a fine of not less than Two Hundred Dollars (\$200) nor more than One Thousand Dollars (\$1,000) and imprisonment of not less than 30 days

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att # 1-3*



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and not more than 180 days. If you sell real estate without a license, K.S.A. 58-3065 provides you may be imprisoned for up to 12 months. For a second violation, not only can you be imprisoned, but a fine of not less than One Thousand Dollars (\$1,000) nor more than Ten Thousand Dollars (\$10,000) can be imposed. Practicing veterinary medicine without a license subjects a person to imprisonment of not more than 90 days. Under K.S.A. 1990 Supp. 65-1162, a licensed nurse who administers anesthesia without being authorized to practice as a nurse anesthetist is guilty of a class A misdemeanor, the penalty for which is jail confinement not to exceed one year and a fine of up to Two Thousand Five Hundred (\$2,500). The Board of Healing Arts believes the unlicensed and unauthorized practice of the healing arts presents graver danger to the health and safety of citizens of this state than these examples I have just mentioned. Therefore, the penalties for such practice should be increased.

Simply stated, Section 1 of HB 2127 would make the unlicensed practice of the healing arts a class B misdemeanor, the penalties for which are confinement in the county jail for not more than six months or a fine of up to One Thousand Dollars (\$1,000), or both. Section 2 would make advertising or intent to practice the healing arts without a license a class C misdemeanor. The penalties for

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this is confinement not to exceed one month or a fine not greater than Five Hundred Dollars (\$500), or both. Section 3 would make the unlicensed practice which results in harm to a person a class C felony. Class C felonies have, as a sentence, imprisonment of a minimum of three to five years and a maximum of 10 to 20 years. Also, a fine may be imposed not to exceed Fifteen Thousand Dollars (\$15,000).

I hope you agree with the Board that the present criminal penalties for unlicensed practice of the healing arts are woefully inadequate and that enactment of HB 2127 would make the penalties for such violation commensurate with the seriousness of the harm to the citizens of this state.

I would be pleased to respond to any questions.

RGG:LTB:lw

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2-21-91  
alt #1 5



# KANSAS MEDICAL SOCIETY

1300 Topeka Avenue • Topeka, Kansas 66612 • (913) 235-2383  
Kansas WATS 800-332-0156 FAX 913-235-5114

February 21, 1991

TO: House Public Health and Welfare Committee  
FROM: Kansas Medical Society *Chip Weelen*  
SUBJECT: House Bill 2127; Penalties for Violating the Healing Arts Act

Thank you for this opportunity to express the support of the Kansas Medical Society for the provisions of HB 2127. As you are aware, the existing penalty for practicing the healing arts without a license, even if such activity causes great harm or threatens the life of a person, involves nothing more than a maximum \$200 fine. Considering the great potential harm to the public when someone practices medicine without a license, we believe that the existing penalty is sorely inadequate.

Upon analysis, the three levels of penalties recommended by the Board of Healing Arts make a lot of sense. The act of advertising or creating the impression that one is licensed to engage in the healing arts, poses a threat to others but does not actually do any type of bodily harm. This is similar to the crime of assault, which is the intentional threat to do bodily harm without actually striking or touching another person. The penalty for assault is a Class C Misdemeanor, and would thus be the same for creating a threat to the public by advertising oneself as a professional licensed to practice the healing arts.

Actually engaging in the healing arts without a license poses a higher level of potential harm to the public in that a patient would actually be seen or cared for by the unlicensed practitioner. This is essentially the same as battery, which is the unlawful intentional touching of a person. The penalty for battery is a Class B Misdemeanor, and thus would be the same for unlawfully engaging in the practice of the healing arts. This, however, could be even worse if the unlicensed person did bodily harm to the unsuspecting patient. In the event that the patient was injured, this would constitute essentially the same crime as aggravated battery, which inflicts bodily harm, causes disfigurement, or poses a threat of bodily harm, disfigurement, or death. The penalty for aggravated battery is a Class C Felony, and would be the same penalty for an unlicensed person who practices the healing arts resulting in bodily harm or the threat of death to the patient.

*PHK*  
*2-21-91*  
*Attn. # 2*

While we support the provisions of HB 2127, we would like to point out a potential situation that could arise under two circumstances. One would be a situation where an office manager or the physician failed to renew their license on time and simply kept practicing without knowing the difference. This is referred to as inadvertent lapsing. We believe that it would be inappropriate to prosecute a licensee for inadvertent lapsing under any of these three penalties for violation of the Healing Arts Act. The Board has sufficient authority to fine a licensee who allows their license to lapse, and there is an automatic \$50 fee for late renewal of one's license. The second scenario would be the situation when a health care provider rendered aid at the scene of an accident in an effort to save lives. It would indeed be unfortunate if such a person were to be prosecuted for violating the healing arts for simply doing their best to save the lives of others. For these reasons we have suggested amendments that would preclude the inappropriate application of the penalties for violation of the Healing Arts Act in those two instances.

Thank you for considering our concerns. We respectfully request adoption of our suggested amendments before you recommend the bill for passage.

CW/cb

*Filed  
2-21-91*

*Attm. 2-2*

# HOUSE BILL No. 2127

By Committee on Public Health and Welfare

2-4

*draft*  
*6-1-9*  
*Alton*

8 AN ACT concerning the healing arts; relating to crimes for unlicensed  
9 practice of the healing arts; amending K.S.A. 65-2803 and 65-  
10 2867 and repealing the existing sections; also repealing K.S.A. 65-  
11 2868.

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 65-2803 is hereby amended to read as follows:  
15 65-2803. ~~No person shall engage in the practice of any branch~~  
16 ~~of the healing arts, as hereinafter defined, unless he shall have~~  
17 ~~obtained from the board a license for that purpose. (a) It shall~~  
18 ~~be unlawful for any person who is not licensed under this act or~~  
19 ~~whose license has been revoked or suspended to engage in the prac-~~  
20 ~~tice of the healing arts as defined in this act.~~ ←

21 (b) Violation of this section is a class B misdemeanor.

22 Sec. 2. K.S.A. 65-2867 is hereby amended to read as follows:  
23 65-2867. ~~The opening of an office for the practice of the healing~~  
24 ~~arts, the announcing to the public in any way the intention to~~  
25 ~~practice the healing arts, the use of any professional degree,~~  
26 ~~or designation, or any sign, card, circular, device, or adver-~~  
27 ~~tisement as a practitioner, or as a person skilled in the same,~~  
28 ~~shall be prima facie evidence of engaging in the practice of~~  
29 ~~said healing arts as defined in this act. (a) It shall be unlawful~~  
30 ~~for any person who is not licensed under this act or whose license~~  
31 ~~has been revoked or suspended to open or maintain an office for~~  
32 ~~the practice of the healing arts as defined in this act or to announce~~  
33 ~~or hold out to the public the intention, authority or skill to practice~~  
34 ~~the healing arts as defined in this act by the use of any professional~~  
35 ~~degree or designation, sign, card, circular, device, advertisement or~~  
36 ~~representation.~~ ←

37 (b) Violation of this section is a class C misdemeanor.

38 New Sec. 3. (a) It shall be unlawful for any person who is not  
39 licensed under this act or whose license has been revoked or sus-  
40 pended, to engage in the practice of the healing arts as defined in  
41 this act and which either:

- 42 (1) Inflicts great bodily harm to any person;
- 43 (2) causes any disfigurement or dismemberment to or of any

This section shall not apply to any person licensed by the board whose license has inadvertently lapsed or to any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident as authorized by K.S.A. 65-2891 and amendments thereto.

*draft*  
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*2-21-91*  
*Attom # 2.4*

1 person; or

2 (3) is done in any manner whereby great bodily harm, disfig-  
3 urement, dismemberment or death can be inflicted.

4 (c) ~~(b)~~ Violation of this section is a class C felony.

5 Sec. 4. K.S.A. 65-2803, 65-2867 and 65-2868 are hereby  
6 repealed.

7 Sec. 5. This act shall take effect and be in force from and after  
8 its publication in the statute book.

(b) This section shall not apply to any person  
licensed by the board whose license has inadvertently  
lapsed or to any health care provider who in good  
faith renders emergency care or assistance at the  
scene of an emergency or accident as authorized by  
K.S.A. 65-2891 and amendments thereto.

Thomas M. Dougherty, M.D.  
Board Certified A.A.F.P.

David A. Leitch, M.D.  
Board Certified A.A.F.P.



Ralph Sheern, Jr., Clinic Mgr.

*The Medical Center Clinic*

117 WEST 6TH

GARNETT, KANSAS 66032

To the Senate Public Health and Welfare Committee  
Senator Roy Ehrlich, Chairperson  
Given 22 March 1990

Committee Members and others:

My name is David A. Leitch, M.D., of Garnett, Kansas. I represent and speak for myself and the Anderson County Medical Society in support of SB753 in its intent to increase the penalty for proven cases of the practice of medicine and surgery without a license. The present fine of only \$200.00 is apparently not enough to warrant county attorneys to prosecute incidents when they are reported. In my opinion, this should be a felony offense, if proven, with a severe penalty.

The cost of obstetrical deliveries in rural Kansas has risen dramatically over the last 24 years that I have been in family practice. The charge I made for an uncomplicated delivery in 1966 was about \$400.00, and in December 1988 when I quit OB deliveries, about 1000 deliveries later, my charge was \$1200.00. Currently in Garnett the quoted fee is \$1500.00, one-half at the time of the first visit and the entire bill paid by the time of delivery. This rise in cost has encouraged midwifery to advertise as an alternative to hospital delivery; particularly since their listed fee is only \$850.00 plus some incidental payments to other people.

I first became acquainted with midwifery on the Blackfoot Indian Reservation in Montana during 1964-66 while serving with the USPHS Indian Health Service. We worked very hard there to reduce home deliveries (and complications) and after two years had decreased home deliveries from 20% to only 5% by providing good care and delivery of healthy babies. I next heard of midwifery in Anderson County in 1983 when, being a small town and rural area, I heard a midwife was going to deliver two pregnant women in our community. One of our doctors tried for an hour to talk a pregnant woman who had had an unfortunate outcome with her first pregnancy out of seeking obstetrical care from a midwife. This midwife was reported to be president of the Kansas Midwife Association.

Some time later in 1983, I was summoned STAT to the Emergency Room to see a woman hemorrhaging profusely following a home delivery. The woman previously visited with was brought by family members bleeding heavily and in shock. The family and very critically ill patient were quite vague about what had happened during that delivery and no midwife accompanied her patient nor attempted to visit with me regarding what had happened. Examination showed, among other things, multiple small tears of the anterior or front portion of the cervix as if it had been grabbed multiple times by some instrument. There was a large, long tear in the posterior part which extended up in to the uterus. This case required multiple blood transfusions,

*PHed*  
*2-21-91*  
*Attm # 3*

M. Dougherty, M.D.  
Board Certified A.A.F.P.

David A. Leitch, M.D.  
Board Certified A.A.F.P.



Ralph Sheern, Jr., Clinician

*The Medical Center Clinic*

117 WEST 6TH

GARNETT, KANSAS 66032

a general anesthetic, surgical repair of a torn uterus with the need for C-Section for the next pregnancy, and lots of luck and heroic measures to save the woman's life.

At about the same time one of the other doctors in our small community reported a case of puerperal sepsis (infected uterus and female parts) following a home delivery and requiring his treatment. He attributed this complication to improper delivery practices.

Following these two cases, there was a quiet interval in which an Amish woman was delivered three times at home, as the only midwife activity in known to the medical community until the fall of 1989 when a brochure (ATTACHMENT I) was found at grocery stores, cafes, a WALMART store, and other public places advertising services. Investigation showed indeed a woman was putting out brochures and was in fact doing home deliveries and alleged to have done 270 such deliveries. A large front page article and pictures in 25 January 1990 THE IOLA REGISTER touted the skills of this person and reporting statements made by her of which I am sure you will be interested and I quote:

"Kansas has no statutes regarding midwifery, Welsh said, but case law has been supportive of the profession in the past."

"Because she is not licensed, Welsh said she does not have to have any form of liability insurance for her midwifery services."

"The important part is that the consumers are there, and as long as there are consumers, there will be midwifery, Welsh said." (ATTACHMENT II)

January 27, 1990, the Coroner of Anderson County was contacted by a family concerning a woman who had fallen over dead. She was found to be 16 days post partum having been delivered allegedly at home by a midwife who had not been seen since. She had not done any followup care. Grieving at home were the husband and even children. Further investigation showed the deceased had been sent to ANDERSON COUNTY HOSPITAL earlier in her pregnancy for an OB Ultrasound alleging she was under the care of an obstetrician in Kansas City. The pregnant woman was sent a registered letter advising her she should be under the care of a physician qualified to handle complications during pregnancy. I would assume the letter was discussed with the midwife. A complete autopsy was done in this case and the death certificate was reported to say disseminated intravascular coagulopathy.

Members of the ANDERSON COUNTY MEDICAL SOCIETY have since received undocumented reports of midwifery services including suturing of tears

JN x W  
2-21-91  
attm #3-2



Thomas M. Dougherty, M.D.  
Board Certified A.A.F.P.

David A. Leitch, M.D.  
Board Certified A.A.F.P.



Ralph Sheern, Jr., Clinic Mgr.

*The Medical Center Clinic*

117 WEST 6TH

GARNETT, KANSAS 66032

following delivery and the giving of "shots" to induce labor.

In summary, I and the ANDERSON COUNTY MEDICAL SOCIETY feel that the proven practice of medicine and surgery without a license and the risk to the general population by that act should carry a penalty in line with what licensed professionals would suffer. This, in my opinion, should be a severe economic setback in the form of a large fine, a restriction in work opportunity in the form of a mandatory jail sentence, and the requirement that notification in writing be made to any potential pregnant woman and her family of all proven adverse outcomes as a result of these illegal services. A \$200.00 fine is not enough penalty for eleven motherless children and a distraught husband.

Thank you very much for your patient and attention. If I can answer any questions, I would be happy to attempt to.

David A. Leitch, M.D.  
117 W. 6th  
Garnett, Kansas 66032

JH4W  
2-21-91  
atm #3-3

*Gentle Hands Midwifery*



Home Birth Service

*Brenda Welsh, Midwife*

1-800-633-0028 Ext.590

*BW/W  
2-21-91  
atm #3-4*

## Introduction

I am a midwife, nutritionist, and childbirth educator. My attitudes towards childbirth and my health care philosophies continue to evolve in response to my experiences. Like many women, my memory of my first child's delivery is a haze of pain, drugs, and instrument manipulation. When he was two years old, I was invited to share the miracle of birth with my neighbors as they brought forth their first son in the privacy of their home.

Ten months later, I was astounded by the profound beauty and spirituality I experienced as I gave birth at home. Motivated by a desire to share my discovery of birth — its love, its joy, its healing potential — I earned my certification as a childbirth educator. Following four years teaching experience and midwifery training, I initiated my midwifery practice in 1980 and have helped hundreds of families make their desire for a safe, competently attended home birth a reality.

Giving birth is a powerful, uniquely personal experience that opens the heart and teaches love. Many parents want to share this dynamic family event in the calm privacy of their home where they know they will not be separated and their wishes will be respected. Responding spontaneously to the rhythm of birth, they labor together in harmony, assisted by the support team of their choice. They enjoy the familiar comforts of home, feeling safe, secure, relaxed. Their child emerges and is gently lifted from the womb to the breast. As they meet the wondering gaze and experience the soft skin and delicate scent of their baby, they know that giving birth is a privilege, a miracle of life.

## Philosophy of Care

*Gentle Hands Midwifery* recognizes that effective health care must encompass the whole person. We endeavor to fully prepare our clients so they enter birth in optimal emotional and physical health. We strive to empower parents with knowledge and support their right to create the birth experience best for them. We value the special relationship that develops between father, mother, and baby during this time, and encourage involvement of both parents in each phase of this creative process.

Women in labor are vulnerable. An insensitive remark can be devastating; interference in this natural phenomenon often causes difficulties which require further technological intervention. We understand this correlation and avoid disrupting the normal flow of labor. We utilize technology when it is advantageous to the mother and baby, while protecting the normalcy of birth and providing personalized, family-centered care.

Newborns are sensitive, intelligent human beings who deserve gentleness, consideration, and loving arms. It is a joy to witness their trusting exploration of their world. We are firmly committed to helping parents provide their children with the nutrient rich, supportive beginning they need to achieve their full potential. Our clients are asked to observe the nutritional tenets necessary for a strong immune system, efficient uterine function, and a healthy infant. It is far better to prevent nutritional and emotional deficits than to compensate for them during birth and later.

PH 4 W  
2-21-91  
JTM #3-5

## Recommendations

- Good communication with Physician
- Chiropractic Care in the Third Trimester
- Thorough Preparation — Classes, Reading
- Complete abstinence from alcohol, nicotine, caffeine, and non-prescription drugs
- Avoidance of Nutrient Depleted Foods
- High-quality Vitamin/Mineral Supplementation
- Intention to Breastfeed

## Professional Affiliations

Association for Childbirth at Home, Intl.  
Box 431, Glendale, CA 91209  
(213) 663-4996

Kansas Midwives Association  
320 North 15th, Manhattan, KS 66502  
(913) 539-6098

Midwives' Alliance of North America  
Regional Headquarters  
600 Fifth St., Monett, MO 65708

Intl. Assn. of Parents and Professionals for  
Alternatives in Childbirth  
Rt. #1 - Box 646, Marble Hill, MO 63764

## Services

### Prenatal

- Pregnancy Tests
- Childbirth Education Classes
- Nutritional Counseling
- Referral to Appropriate Resources
- Preparation of Children or Friends
- Pre-Birth Party  
to review emergency back-up plan and responsibilities
- Complete Birth Kit

### Birth

- Labor Support  
providing any help necessary to handle contractions
- Maternal and Fetal Well-Being Monitored  
including labor progress, metabolic normalcy, fetal position, heart tones, and descent
- Low-Stress, Gentle Birth Techniques  
Immediate Newborn Care, Blood Loss Prevention, Placental Delivery and Inspection

### Postpartum

- Newborn Assessment and Leboyer Bath
- Breastfeeding and Birth Control Counseling
- Home Visits
- Birth Certificate Filed
- Birth Records and Statistics Maintained

### Other Services

- Community Workshops  
—Coordination of Interventive Care with Medical Personnel
- Discussion of Birth Options and the Midwifery Profession with Churches, Schools, and Colleges
- Hospital or Birth Center Labor Coaching
- Birth Photography — 35mm or VHS video

PN 420  
PN 2-21-91  
PN 3-6  
PN 3-6



Register/Kelly Presnell

Midwife Brenda Welsh of Kincaid holds Austin Lyons, who she helped deliver Oct. 31 at the rural Osawatimie home of Troy and DeAnn Lyons. Welsh's business keeps her on the

move as she travels throughout eastern Kansas helping not only in the birth process but also in prenatal and postnatal stages of pregnancies.

## Home birth led to profession

By BRUCESYMES  
Register Wire Editor

Brenda Welsh of Kincaid had an experience 14 years ago that directly led to her occupation today.

Welsh had given birth to a son in 1972. The delivery was done in a hospital. Two years later, she was invited to attend a friend's home birth of a child.

Less than a year later, in 1975, Welsh had a second son in the comfort of her home and in the company of friends

### Kincaid midwife now helps others

and family. The experience changed her outlook on the birthing experience.

Welsh operates Gentle Hands Midwifery, a business operated from her home which provides prenatal, birth and postpartum services to families in a large area of eastern Kansas.

The midwife, nutritionist and childbirth educator —

Welsh has nearly earned a degree in nutrition with an emphasis in nutrition, chemistry and biological sciences from Park College, Kansas City, Mo. — spends countless hours on the road and in the homes of her clients, keeping check on the health of the expecting mother and monitoring the growth of the baby.

For Welsh, as for two client families interviewed for this story, the home birth was incomparable to a hospital birth.

"Like two different worlds," was how Welsh explained the comparison. She said she thought a "dehumanization" occurred in hospital births, because expecting mothers were in an unfamiliar, unpersonal atmosphere and were often connected to

(Continued on page 6, column 3)

PH 1-91  
2  
altm 3 -7

(Continued from page 1)

achines which denied any effort in giving birth.

Major technology found only hospitals is sometimes needed, and Welsh has been used in the past to refer a patient to a hospital for care, but she said that rarely was the case.

She stresses sound health habits and maintenance for the expecting mother and recommends good communication with their physician and breastfeeding after giving birth.

"I try to teach them that they're responsible for their health," Welsh said.

She has found in attending more than 270 births, including about 170 as the primary birth attendant after starting a midwifery practice in 1980, that control is the primary factor in couples choosing to give birth at home.

"People really want to have control of a birth," she said.

SHAWN PAUL Windisch was born Dec. 19 at his parents' home north of Osawatomie. A friend of Marsha and Gary Windisch shared their baby's birth with them, as well as Welsh and Gentle Hands assistant. On Wednesday, the midwife visited the Windisch home to make a final check on the baby's health as part of her postpartum service.

Shawn Paul is the couple's fifth child but is the first born at home. For Marsha, the experience was unique and more enjoyable than the hospital births of her other children.

"It just seems like it's a little more special with Shawn Paul," she said. "I'm absolutely sure that if I have another baby, I'll

do it this way" as well as recommend home birth to friends.

Marsha said that after she and her husband found a brochure for Gentle Hands Midwifery and decided to consider a home birth. She heard some negativism, a statement not surprising to Welsh.

"I probably had some fears fed to me by friends and relatives," Marsha said, although the views of those acquaintances changed after the Windisch's experience.

Welsh said dealing with negativism about midwifery from some physicians, clients' family members and others was a realism.

"A high percentage of people have a negative attitude about midwifery," she said.

She said that she found a majority of critics had limited knowledge about the profession and the care given by midwives.

Marsha said the advantages of a home birth were numerous, in her view, and included the home atmosphere, no need for an ambulance ride to a hospital and being able to hold the baby for as long as desired after his birth.

"Having my husband here to take care of me instead of nurses was nice, too," she said.

DEANN AND TROY Lyons had a similar experience Oct. 31, 1989, when their son, Austin Keith, was born at their home south of Osawatomie. However, there were some factors that set it apart.

Their house was nearly full of family and friends when DeAnn gave birth, the couple said. DeAnn's father and mother, who adopted their daughter and had no other children, two friends and DeAnn's cousin

joined Welsh and an assistant at the birth.

"We just had a party," DeAnn said.

A Halloween prank nearby left the area in which their home is without electricity immediately after their child was born. The group lit candles and enjoyed talking about what had just transpired, Troy said.

DeAnn said Gentle Hands Midwifery was recommended to them by another midwife who was unable to take their case because of time constraints.

"We met Brenda and she really didn't ask us if we wanted her, she just took us," DeAnn said.

Troy, who had two other children before marrying DeAnn, said the education received in classes, books and videotapes provided by Welsh made the home birth a calm, enjoyable experience.

"In a hospital, you're both uptight, and here, Brenda kept us calm," he said. "And you know so much compared to a hospital birth."

DeAnn, who described their relationship with Welsh as friendly rather than professional, said: "If I was to have another baby, I would have Brenda come back."

WELSH CARRIES everything she needs for a birth in her car at all times, including equipment, clothes and health records. An answering service is checked frequently for messages.

The midwife said she tried to maintain a service area within one and one-half hours driving time of Kincaid, but often went further.

"I really get to know the state, and I see a lot of beautiful

sunrises," she said.

Welsh, who holds membership in several midwifery and home childbirth organizations, acquired experience and education in midwifery and general health and nutrition in work with physicians and midwives before starting her midwifery practice. She tells all clients before helping them that she isn't a nurse, and a contract is signed which allows her to withdraw from any case in which she thinks an expecting mother's health habits are harmful to the unborn child.

The cost of her service is \$850, and couples can expect to pay an additional \$250 for vitamins, lab work, physician costs and other expenses.

Because she is not licensed, Welsh said she does not have to have any form of liability insurance for her midwifery service.

"Midwives very rarely get sued," she said.

Kansas has no statutes regarding midwifery, Welsh said, but case law has been supportive of the profession in the past. Some states, she noted, have made midwifery illegal.

"The important part is that the consumers are there, and as long as there are consumers, there will be midwifery," Welsh said.

After her children are graduated from high school, Welsh plans to attend either chiropractic, naturopathic or osteopathic school.

"I probably always will do the midwifery, too," she said.

By helping families in the home birth of children, Welsh said she shares in the joy experienced in each case.

"I have a lot of mental pictures that will last a lifetime," she said.

PJW  
2-21-91  
attm # 3-8

TO: The COMMITTEE ON PUBLIC HEALTH AND WELFARE  
KANSAS SENATE

From: Gerald L. Mowry, M.D., F.A.C.O.G.  
1441 Anderson Avenue  
Manhattan KS 66502 913-776-4200

I have been asked by the Executive Director of the Kansas State Board of Healing Arts to give a report on obstetrical cases requiring emergency intervention by a physician after attempts by lay midwives in home delivery had failed.

In the hospital setting, modern techniques, training, and technology have brought us nearly an irreducible minimum of mother-baby deaths. Emergencies in obstetrics can arise so suddenly and unpredictably that there is no time to seek outside help. Those present must be able to handle the emergency in order to save the mother or baby's life.

In a ten-year study from England, even with carefully selected home delivery systems, with back-up physician and hospital available, it was found that mother-baby deaths decreased as the number of home deliveries went down.

In the United States, studies of systematically developed home-delivery systems show that well-trained personnel with well-planned procedures for delivery, including hospital back-up for emergency can produce nearly normal safety statistics. However, the directing person must have thorough training in labor and delivery, including knowledge of ALL potential complications. Naturally, patients who are found during their prenatal visits to present any risk factors whatsoever are required to deliver in the hospital.

*PH&W  
2-21-91  
Allen #14*

The same cannot be said for lay midwives, whose "training" may only consist of neighborhood experience gained from "helping" with deliveries. Some do not use the term "midwife," but style themselves "baby catchers" in order to avoid liability for practicing without a license. They believe that their patient, or "friend" has a right to deliver at home and in their presence, which is true. They usually do not state a charge for their services, but their patients know what amount of "gift" is expected.

Some attend pre-natal visits to an obstetrician with their "patient" asking questions and expecting to see the results of laboratory reports, and so forth. Most obstetricians are cooperative, desiring to help the patient have as satisfactory an outcome as possible. The obstetrician knows that he will not be called when it is time for delivery.

From time to time, a well-meaning newspaper article will glamorize the role of the lay-midwife as a reasonable alternative to expensive high-tech hospital care. Tragedy follows in its wake.

Unfortunately, the present penalty for practicing without a license is insufficient to discourage lay midwives from their dangerous practices. As women must be free to choose their care, it is unlikely that women will cease to seek this risky form of delivery when it is readily available. The baby, of course, has no choice at all.

Perhaps a few examples from my locality would illustrate, gathered by several obstetricians. Patient names have been altered to protect the guilty.

Dorothy, a 31-year-old mother of two, a professor, and professor's wife, delivered at home about three blocks from the hospital. Her pregnancy and prenatal care were normal. Because of heavy bleeding, she was brought in by the family and lay midwife about a half-hour after delivery.

She was in shock, weak, and had an undelivered placenta. Ten minutes later, we could get neither pulse nor blood pressure. Emergency treatment by blood replacement saved her life. She required 4 units of blood--the equivalent of half her circulating blood volume. In spite of this massive transfusion, her anemia, hemoglobin level, was three pints below normal.

Two weeks later, she was back in class, telling her students about the glorious experience she had with home delivery...but not a word about her narrow escape from death.

*PHW  
2-21-91  
attm #4-2*



Karla, a 24-year-old mother, delivered her second child at home. Four hours after delivery, still bleeding, with the placenta still attached, she was brought to the emergency room of the hospital. She required general anesthesia, IV's and two units of blood to survive. The placenta had to be removed manually and a D & C performed.

Martha, a 33-year-old mother of three, gave birth at home to a nice large son with a fractured clavicle due to shoulder dystocia. Four hours later she was brought to the hospital by the lay midwife. She was in shock and still bleeding. Four units of blood replacement were required to stabilize her, and extensive repair of lacerations required to stop the bleeding. She was still anemic three more pints of blood when she left the hospital.

Linda, an 18-year-old with her first pregnancy, labored at home for twenty-four hours without progress before the lay midwife noted that the baby's heartbeat was dropping dangerously. After she was brought to the hospital, a Caesarean section delivered a ten-pound, thirteen-ounce baby by the only route this child could have been safely delivered.

Her obstetrician had known that the pelvic measurements were adequate only for passage of a small baby. Hospital monitoring of the baby would have shown the baby's problems much earlier and spared the mother and baby a dangerously long and stressful labor.

Sheila, a 33-year-old mother of three decided to deliver her baby at home after an uneventful pregnancy. She thought she was in early labor. Six hours later, she was complete, dilated, and after two-and-a-half hours of pushing, the baby's heart rate dropped below safety. She was brought to the hospital just in time by a frightened midwife. The presentation of the head was complex, face up, with the chin down. No baby can be delivered from this position, dead or alive.

Rotation of the head or Caesarean section must be done to avoid further trauma to the baby. The Caesarean section done after such prolonged pushing was accompanied by three units of blood loss. Because she was brought to the hospital in time, she and her baby both survived.

Ursula, a 28-year-old professor's wife, having their first baby, also had an uneventful pregnancy. They planned to deliver at home. The lay midwife brought her to the hospital after six hours of complete dilation and pushing without effecting delivery. The safe limit in the hospital would have been about two hours. The baby, by this time was in serious distress.

The baby was delivered in about ten minutes at the hospital with IV's, oxygen to support the baby, local blocks for pain, and a one-forcep--- spoon-like rotation, and an easy outlet delivery.

It was not soon enough, however, to ease the baby's distress. He was further stabilized with oxygen, placed on a respirator, given IV fluids, and then transferred by helicopter to an Intensive Care Nursery. He was kept there for a week before he was well enough to be returned to our hospital nursery. The baby had demonstrable brain damage on the CTScan and failed to thrive. He did not follow the usual pattern of development and behavior and died at 15 months of brain damage.

We could go on, but these are examples of the risks posed by home delivery under the care of untrained, unsupervised lay midwives. Those of us who care about safety for mothers and babies believe that the penalties for delivering babies without license, training, or supervision, should be increased to a level that would prevent substandard care from being offered in Kansas.

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JNW  
2-21-91  
att #43  
4-3

CURRICULUM VITAE

Gerald L. Mowry, M.D., F.A.C.O.G

Practicing Obstetrician-Gynecologist in Manhattan, Kansas  
from 1963-1990.

University Of Kansas School of Medicine, M.D., 1953  
Rotating Internship, 1953-54

Family Practice, Platte City, Missouri, 1954-55

Family Practice, Hanover, Kansas, at Hanover Hospital, (the pilot hospital  
in Chancellor Franklin Murphy's plan to bring medical school  
graduates into Kansas small towns.) 1955-1960

Residency Training Program in Obstetrics & Gynecology, KUMC 1960-63

Certified by the American Board of Obstetrics and Gynecology

Fellow, American College of Obstetricians and Gynecologists

Former Chairman, Kansas Section, American College of Obstetricians and  
Gynecologists.

Former President, Kansas Obstetrical Society

Chairman, Kansas Statewide Perinatal Committee

*JAW  
2-21-91  
attm #4-4*

SELECTED STATISTICS FOR KANSAS AND THE UNITED STATES  
1965, 1975, 1980, and 1984-1988

Year	KANSAS				U.S.
	Total Births	Perinatal Period III Deaths			Rate <sub>a</sub> /
		Fetal Deaths	Hebdomadal Deaths (Under 1 Week)	Rate <sub>a</sub> /	
1965.....	39,644	466	550	25.6	n.a.
1975.....	34,048	341	304	18.9	n.a.
1980.....	41,026	340	226	13.8	n.a.
1984.....	40,232	278	200	11.9	n.a.
1985.....	39,692	274	184	11.5	n.a.
1986.....	39,419	242	153	10.0	n.a.
1987.....	38,688	253	179	11.2	n.a.
1988.....	38,718	236	161	10.3	n.a.

	Live Births	Neonatal Deaths	Kansas Rate <sub>b</sub> /	U.S. Rate <sub>b</sub> /
1965.....	39,178	600	15.3	17.7
1975.....	33,707	341	10.1	11.6
1980.....	40,686	269	6.6	8.5
1984.....	39,954	251	6.3	7.0
1985.....	39,418	227	5.8	7.0
1986.....	39,177	190	4.8	6.7
1987.....	38,435	208	5.4	6.5 <sub>c</sub> /
1988.....	38,718	186	4.8	6.4 <sub>c</sub> /

	Live Births	Infant Deaths	Kansas Rate <sub>b</sub> /	U.S. Rate <sub>b</sub> /
1965.....	39,178	814	20.8	24.7
1975.....	33,707	468	13.9	16.1
1980.....	40,686	412	10.1	12.6
1984.....	39,954	392	9.8	10.8
1985.....	39,418	357	9.1	10.6
1986.....	39,177	337	8.6	10.4
1987.....	38,435	353	9.2	10.0 <sub>c</sub> /
1988.....	38,718	304	7.9	9.9 <sub>c</sub> /

	Live Births	Maternal Deaths	Kansas Rate <sub>d</sub> /	U.S. Rate <sub>d</sub> /
1965.....	39,178	12	3.1	3.2
1975.....	33,707	6	1.8	1.3
1980.....	40,686	4	1.0	0.9
1984.....	39,954	4	1.0	0.8
1985.....	39,418	3	0.8	0.8
1986.....	39,177	1	0.3	0.7
1987.....	38,435	1	0.3	0.8 <sub>c</sub> /
1988.....	38,718	4	1.0	0.8 <sub>c</sub> /

Perinatal Period III Death: The death of a fetus which weighs more than 350 grams or a liveborn infant during the hebdomadal period (less than seven days after birth).

Neonatal Death: The death of a liveborn infant which occurs prior to the twenty-eighth day of life.

Infant Death: The death of a liveborn infant which occurs within the first year of life.

a/Perinatal Period III Death Rates are expressed per 1,000 total births (live births plus fetal deaths).

b/Neonatal and Infant Death Rates are expressed per 1,000 live births.

c/Estimates.

d/Maternal Death Rates are expressed per 10,000 live births.

Residence data.

Source: Kansas Department of Health and Environment

1/7

*PNVW  
2-21-91  
att #4 5*

SELECTED STATISTICS FOR KANSAS

1940, 1950, 1960, 1970, 1980 and 1988

<u>Year</u>	<u>Perinatal Period III Death Rates*</u>	<u>Maternal Death Rates**</u>
1940	45.3 (1343 deaths)	35.5 (102 deaths)
1950	32.0 (1425 deaths)	6.1 (27 deaths)
1960	28.2 (1449 deaths)	1.8 (9 deaths)
1970	23.3 (900 deaths)	1.3 (5 deaths)
1980	13.8 (566 deaths)	1.0 (4 deaths)
1988	10.3 (397 deaths)	1.0 (4 deaths)

\* Perinatal Period III Death Rates are expressed per 1,000 total births (live births plus fetal deaths).

\*\* Maternal Death Rates are expressed per 10,000 live births.

*P N & W  
2-21-91  
atten # 4-6*

SELECTED STATISTICS FOR KANSAS AND THE UNITED STATES  
1965, 1975, 1980, and 1984-1988

Year	KANSAS				U.S.
	Total Births	Perinatal Period III Deaths			Rate <sub>a</sub> /
		Fetal Deaths	Hebdomadal Deaths (Under 1 Week)	Rate <sub>a</sub> /	
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a/Perinatal Period III Death Rates are expressed per 1,000 total births (live births plus fetal deaths).

b/Neonatal and Infant Death Rates are expressed per 1,000 live births.

c/Estimates.

d/Maternal Death Rates are expressed per 10,000 live births.

Residence data.

Source: Kansas Department of Health and Environment

I/7

*P.H.W.  
2-21-91  
attm 74-9*



# Kansas Association of Osteopathic Medicine

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Harold E. Riehm, Executive Director

1260 S.W. Topeka  
Topeka, Kansas 66612  
(913) 234-5563

February 21, 1991

To:  Chairperson Sader and Members, House Public Health Committee  
From:  Harold E. Riehm, Executive Director, KAOM  
Subject: KAOM Support of H.B. 2127

We support the changes in the existing law found in H.B. 2127.

KAOM has consistently supported strong disciplinary procedures and penalties for those in violation of the Healing Arts Acts. In this case, we think protection of the public merits the redefinitions and delineation of misdemeanor and felony violations as found in H.B. 2127.

Thank you for this opportunity to express our opinion.

PHCW  
1-21-91  
attn=5

STATE OF KANSAS



DIVISION OF THE BUDGET

Room 152-E  
State Capitol Building  
Topeka, Kansas 66612-1578

(913) 296-2436  
FAX (913) 296-0231

JOAN FINNEY, GOVERNOR  
Gary Stotts, Acting Director

February 20, 1991

The Honorable Carol H. Sader, Chairperson  
Committee on Public Health and Welfare  
House of Representatives  
Third Floor, Statehouse

Dear Representative Sader:

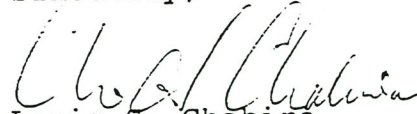
SUBJECT: Fiscal Note for HB 2128 by Committee on Public  
Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note  
concerning HB 2128 is respectfully submitted to your committee.

HB 2128 would amend KSA 1990 Supp. 65-2896a and 65-2896b  
which concern qualifications for registration as a physician's  
assistant. Current law requires that to be registered an  
individual must have successfully completed two years of post  
secondary education, approved by the Board of Healing Arts,  
which is in substantial conformity with education programs for  
physicians' assistants that are approved by the State Board of  
Regents. The act requires that the education be equivalent to  
that approved by the State Board of Regents.

The act has no fiscal effect.

Sincerely,

  
Louis S. Chabira  
Deputy Director

cc: Dr. Richard Gannon, Board of Healing Arts

2583

*PHW*  
*2-21-91*  
*Attn #6*

HOUSE BILL No. 2128

By Committee on Public Health and Welfare

2-4

8 AN ACT concerning healing arts; physicians' assistants; amending  
9 K.S.A. 1990 Supp. 65-2896a and 65-2896b and repealing the ex-  
10 isting sections.

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 1990 Supp. 65-2896a is hereby amended to  
13 read as follows: 65-2896a. (a) No person's name shall be entered on  
14 the register of physicians' assistants by the state board of healing  
15 arts unless such person has:

16 (1) Presented to the state board of healing arts proof of graduation  
17 from an accredited high school or the equivalent thereof; and

18 (2) Presented to the state board of healing arts proof that the  
19 applicant has successfully completed a course of education and training  
20 approved by the state board of healing arts for the education  
21 and training of physicians' assistants, which course of education and  
22 training shall consist of at least two years of postsecondary education

23 and training and shall be substantially in conformity with equiv-  
24 alent to the educational and training programs for physicians' as-  
25 sistants approved by the state board of ~~regents~~, or presented to the  
26 state board of healing arts proof that the applicant has acquired  
27 experience while serving in the armed forces of the United States  
28 which experience meets minimum requirements established by the  
29 state board of healing arts;

30 (3) passed an examination approved by the state board of healing  
31 arts covering subjects incident to the education and training of phy-  
32 sicians' assistants; and

33 (4) presented to the state board of healing arts a request signed  
34 by the applicant's proposed responsible physician on a form provided  
35 by the board which shall contain such information as required by  
36 rules and regulations adopted by the board.

37 (b) The board may refuse to enter a person's name on the register  
38 of physicians' assistants upon any of the grounds for which the board  
39 may remove a person's name from such register.

40 (c) A physician's assistant shall at the time of initial registration  
41 and any renewal thereof present to the state board of healing arts  
42 the name and address of such person's responsible physician. When-

*Carmey*

be

*Healing Arts*

is equivalent to the  
 experience

*PHCW  
2-21-91  
1*

*PHCW  
2-21-91  
~~attm #1~~  
attm #1*



115-  
STATE OF KANSAS



DIVISION OF THE BUDGET

Room 152-E  
State Capitol Building  
Topeka, Kansas 66612-1578

JOAN FINNEY, GOVERNOR  
Gary Stotts, Acting Director

(913) 296-2436  
FAX (913) 296-0231

February 20, 1991

The Honorable Carol Sader, Chairperson  
Committee on Public Health and Welfare  
House of Representatives  
Third Floor, Statehouse

Dear Representative Sader:

SUBJECT: Fiscal Note for HB 2141 by Committee on Public  
Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note  
concerning HB 2141 is respectfully submitted to your committee.

HB 2141 amends KSA 65-2846 and 1990 Supp. 65-2844 and  
repeals existing sections. The bill would make changes in the  
way a licensee may seek reinstatement of a license that has  
been revoked by the Board of Healing Arts. Under current law,  
such person must wait for one year from the effective date of  
the revocation. Under the bill, such person must wait for  
three years, complete a form as provided by the board, and pay  
a fee not to exceed \$1,000. He/She shall bear the burden of  
proof to show sufficient rehabilitation to justify the  
reinstatement of the license. If the board determines that the  
license should not be reinstated, the licensee must wait  
another three years before applying again.

The bill goes on to provide that any cost incurred by the  
board under the Kansas Administrative Procedure Act may be  
assessed against the licensee if the licensee is the  
unsuccessful party. The board must bear the costs if it is the  
unsuccessful party. The bill also provides a definition for  
costs.

The effect of the bill would be to recoup funds expended on  
actions taken against licensees whose licenses are not  
reinstated. The expenses of such actions would be borne by the  
unsuccessful licensee and not by the board. The board  
estimates that it could recoup as much as \$30,000 each year.  
Additionally, the board estimates that it could receive as much

PNW  
2-21-91

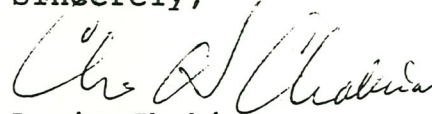
  
attm #8

The Honorable Carol Sauer  
February 20, 1991  
Page Two

\$2,250 in additional fee funds each year due to the levying of the reinstatement fee.

Any fiscal impact resulting from the passage of HB 2141 is not reflected in the *FY 1992 Governor's Budget Report*.


Sincerely,



Louis Chabira  
Deputy Director

cc: Board of Healing Arts

2523

PHW  
2-21-91  
8-2  
attn # 

*Prueger*

Section of 1991

HOUSE BILL No. 2141

By Committee on Public Health and Welfare

2-5

*delete*

1 against the parties to the proceeding in such proportion as the board  
2 may determine upon consideration of all relevant circumstances in-  
3 cluding the nature of the proceeding ~~the outcome of the proceeding~~  
4 and the level of participation by the parties.

5 (b) For purposes of this section costs incurred shall mean the  
6 presiding officer fees and expenses, costs of making any transcripts,  
7 witness fees and expenses, mileage, travel allowances and subsistence  
8 expenses of board employees and fees and expenses of agents of the  
9 board who provide services pursuant to K.S.A. 1990 Supp. 65-2878a  
10 and amendments thereto. Costs incurred shall not include presiding  
11 officer fees and expenses or costs of making and preparing the record  
12 unless the board has designated or retained the services of inde-  
13 pendent contractors to perform such functions.

14 (c) The board shall make any assessment of costs incurred as  
15 part of the final order rendered in the proceeding. Such order shall  
16 include findings and conclusions in support of the assessment of  
17 costs.

18 Sec. 3. K.S.A. 65-2846 and K.S.A. 1990 Supp. 65-2844 are  
19 hereby repealed.

20 Sec. 4. This act shall take effect and be in force from and after  
21 its publication in the statute book.

8 AN ACT concerning the healing arts; relating to reinstatement of  
9 revoked licenses and the assessment of costs in administrative  
10 proceedings; amending K.S.A. 65-2846 and K.S.A. 1990 Supp.  
11 65-2844 and repealing the existing sections.

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 1990 Supp. 65-2844 is hereby amended to read  
14 as follows: 65-2844. At any time after the expiration of one year,  
15 application may be made for reinstatement of any licensee  
16 whose license shall have been revoked, and such application  
17 shall be addressed to the board. The board may adopt such  
18 rules and regulations concerning notice and hearing of such  
19 application as considered necessary. A person whose license has  
20 been revoked may apply for reinstatement of the license after the  
21 expiration of three years from the effective date of the revocation.  
22 Application for reinstatement shall be on a form provided by the  
23 board and shall be accompanied by a reinstatement fee established  
24 by the board by rules and regulations not to exceed \$1,000. The  
25 burden of proof by clear and convincing evidence shall be on the  
26 applicant to show sufficient rehabilitation to justify reinstatement of  
27 the license. If the board determines a license should not be reinstated,  
28 the person shall not be eligible to reapply for reinstatement for three  
29 years from the effective date of the denial. All proceedings conducted  
30 on an application for reinstatement shall be in accordance with the  
31 provisions of the Kansas administrative procedure act and shall be  
32 reviewable in accordance with the act for judicial review and civil  
33 enforcement of agency actions. The board, on its own motion, may  
34 stay the effectiveness of an order of revocation of license.

35 Sec. 2. K.S.A. 65-2846 is hereby amended to read as follows:  
36 65-2846. ~~(If the order is adverse to the licensee, the costs shall be~~  
37 ~~charged to him as in ordinary civil actions in the district court, but~~  
38 ~~if the board is the unsuccessful party, the costs shall be paid out of~~  
39 ~~any money in the healing arts fee fund. Witness fees and costs may~~  
40 ~~be taxed according to the statutes prevailing in the district courts.~~

*delete*

41 (a) The costs incurred by the board in conducting any proceeding  
42 under the Kansas administrative procedure act may be assessed

If the board's order is adverse to the licensee or applicant for reinstatement of license,



KANSAS MEDICAL SOCIETY

1300 Topeka Avenue · Topeka, Kansas 66612 · (913) 235-2383

Chip Wheelen  
Director of Public Affairs

2/19/91

*Alton #9  
2-21-91  
Prueger*

*Prueger  
2-21-91  
Alton #9*

STATE OF KANSAS



DIVISION OF THE BUDGET

Room 152-E  
State Capitol Building  
Topeka, Kansas 66612-1578

JOAN FINNEY, GOVERNOR  
Gary Stotts, Acting Director

(913) 296-2436  
FAX (913) 296-0231

February 21, 1991

The Honorable Carol H. Sader, Chairperson  
Committee on Public Health and Welfare  
House of Representatives  
Third Floor, Statehouse

Dear Representative Sader:

SUBJECT: Fiscal Note for HB 2033 by Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2033 is respectfully submitted to your committee.

This bill would allow a \$600 income tax credit to a qualified relative for each disabled individual living in the relative's home. The taxpayer can claim no more than three credits and the single taxpayer must have an adjusted gross income of \$20,000 or less. The joint return filer must have an adjusted gross income of \$40,000 or less.

The Department of Revenue estimates that passage of this bill would decrease FY 1992 State General Fund revenues by an unknown amount. There is no information available that indicates how many taxpayers would qualify for this credit.

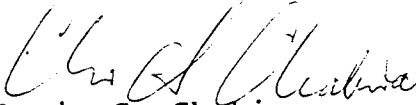
The Department of Revenue estimates total FY 1991 administrative expenditures of \$23,251 and \$24,930 for FY 1992. One time expenditures in FY 1991 of \$9,796 include computer programmer and analyst time of \$7,566 and other operating expenditures of \$2,230. Annual expenditures for FY 1991 are estimated at \$13,465 and for FY 1992 at \$24,930 for one additional Tax Examiner II at range 20 and operating expenditures.

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*2-21-91*  
~~\_\_\_\_\_~~  
*attn #10*

The Honorable Carol H. Sader  
February 19, 1991  
Page Two

Any revenues or expenditures that would occur as a result of passage of this act are not included in the *FY 1992 Governor's Budget Report*.

Sincerely,

  
Louis S. Chabira  
Deputy Director

cc: Ric Silber, Department on Aging  
Mark Beshears, Secretary of Revenue  
Karen DeViney, SRS

2595

BNW  
2-21-91  
~~BNW~~  
attn. # 10-2

# HOUSE BILL No. 2033

By Committee on Taxation

1-22

8 AN ACT relating to income taxation; allowing credits for in-home  
9 care of disabled persons.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (a) There shall be allowed as a credit against the tax  
13 liability imposed under the Kansas income tax act of a qualified  
14 relative an amount equal to \$600 for each disabled person who resides  
15 in such qualified relative's home and for whom such qualified relative  
16 provides in-home care for at least six months of the taxable year.  
17 Such tax credit shall be allowed for not more than three such disabled  
18 persons. Not more than one qualified relative may claim the credit  
19 for care of any such disabled person in the same taxable year.

20 (b) For purposes of this section:

21 (1) "Disabled person" means an individual who: (A) Would re-  
22 quire institutionalization if adequate in-home care at the residence  
23 of the claimant is unavailable; (B) has chronic physical or mental  
24 limitations which restrict individual ability to carry out normal ac-  
25 tivities of daily living and which threaten an individual's capacity to  
26 live an independent life; and (C) would be eligible to receive or  
27 receives services under the home and community-based services  
28 program of the department of social and rehabilitation services.

as certified by a person licensed to practice medicine and  
surgery or as determined under K.S.A. 39-778 and amendments  
thereto  
and

29 (2) "Qualified relative" means an individual who is related to a  
30 disabled person by blood or marriage and whose Kansas adjusted  
31 gross income for the taxable year in which the credit is claimed is  
32 \$40,000 or less, in the case of a joint return filer, or \$20,000 or  
33 less, in the case of a single filer.

34 (c) An individual may not claim a tax credit under this act if a  
35 credit for child care and dependent care expenses was claimed on  
36 either the state or federal tax return, or if the individual receives  
37 payment for care of the disabled person.

38 (d) The credit allowed by this section shall not exceed the amount  
39 of tax imposed under the Kansas income tax act reduced by the sum  
40 of any other credits allowable pursuant to law.

41 Sec. 2. The provisions of this section shall be applicable to all  
42 taxable years commencing after December 31, 1990.

43

*4-21-91  
Attm #11  
P.H.W.*

*P.H.W.  
2-21-91  
Attm #11  
#11*



*Kansas Chiropractic*  
ASSOCIATION

February 21, 1991

TO: House Public Health and Welfare Committee

FROM: Joe Furjanic, Executive Director

RE: Support of HB 2127

KCA Supports HB 2127 which would provide for tougher penalties for people who practice the Healing Arts without a license. Further, KCA supports the amendments proposed by the KMS.

*PH&W*  
*2-21-91*  
*Attn #12*